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January 11, 1999

VIA HAND DELIVERY

Mr. Lawrence C. St. Blanc
Secretary
Louisiana Public Service Commission
16th Floor, One American Place
Baton Rouge, Louisiana 70821-9154

In Re: Docket No. U-22252, Subdocket C

Dear Mr. St. Blanc:

Enclosed please find for filing the original and six (6) copies of the foregoing Comments of Sprint Communications Company L.P. Regarding January Workshop Issues in the above referenced docket. Thank you for your assistance. Please call me at 404-649-6221 if you should have any questions regarding this matter.

Sincerely,

William R. Atkinson

William R. Atkinson

WRA/de
Enclosures
cc: Parties of Record
Mr. John Dunlap

BEFORE THE

LOUISIANA PUBLIC SERVICE COMMISSION

Louisiana Public Service Commission, ex parte.

In Re: BellSouth Telecommunications, Inc., Service Quality Performance Measurements

Docket No. U-22252, Subdocket C

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.
REGARDING JANUARY WORKSHOP ISSUES

In accordance with the Commission's Notice, dated December 2, 1998, in the above-styled matter, Sprint Communications Company L.P. ("Sprint") now files its Comments regarding the issues set for discussion at the workshops scheduled for January 25-28, 1999, in connection with this docket. For those workshop issues not discussed below, Sprint respectfully reserves its rights to comment at the January workshop and other appropriate for a.

COMMENTS REGARDING ENFORCEMENT, PENALTIES AND DISPUTE RESOLUTION

a. **Sprint's proposal for compliance incentives and enforcement**

Sprint proposes the following guidelines and methodologies for the detection of out-of-compliance conditions and for the application of performance penalties. In developing this plan, Sprint has considered its diverse ILEC and CLEC interests with respect to performance measurements and penalties and believes that Sprint's approach represents a reasonable balance that the Louisiana Commission should adopt.

Sprint proposed plan involves the identification of "occurrences" which involve out-of-compliance ILEC performance for individual or multiple measurements either for

single months or for repetitive violations over multiple months. These parameters are defined below. Such occurrences result in the automatic application of penalties as defined in part d., below

DEFINITIONS

Performance Measurement:

One of the forty-eight aggregate measurements contained in Version 7.0 of the LCUG Service Quality Measurements document, or those measurements adopted by the Louisiana Commission.

Performance Sub-Measurement:

Disaggregated performance measurement as outlined in Appendix A of LCUG Version 7.0, or as adopted by the Louisiana Commission. Note that sufficient data must be sampled for a Performance Measurement or Performance Sub-Measurement to be statistically valid. When the permutation test is used, the minimum sample size is 5 observations. If the permutation test is not used, then a sample size of 30 is required.

Type A Occurrence:

Out of compliance condition for three consecutive months on the same Performance Sub-Measurement or Performance Measurement at the aggregate level. A Performance Measurement is deemed to be out of compliance at the aggregate level when the weighted average results for the CLEC (weighted by the CLEC volumes) of the Performance Sub-Measurements are not within 5% of

parity compared to the weighted average BellSouth results (also weighted by the CLEC volumes). When calculating the weighted average, any CLEC results which exceed parity with the BellSouth results at the sub-measurement level would be adjusted to the parity level to eliminate the ability for BellSouth to offset poor performance on a sub-measure level with good performance on another sub-measure within the same performance measure.

A Performance Sub-measure is deemed to be out of compliance when the critical value for the sub-measure, as calculated using the modified z-test, exceeds a predetermined level.

Type B Occurrence:

Defined as when BellSouth fails to reach a 90% threshold level of Performance Measurements met in any single month for three consecutive months, or four months within any rolling six-month period. For example, a Type B Occurrence would occur when an ILEC misses 5 or more of the Performance Measurements contained in Version 7.0 of the LCUG Service Quality Measurements document.

Type C Occurrence:

Defined as when BellSouth fails to reach a 75% threshold level of Performance Measurements met in any single month. For example, when BellSouth misses 12 or more of the Performance Measurements contained in Version 7.0 of the LCUG Service Quality Measurements document.

PREREQUISITES FOR PENALTIES:

Penalties are non-applicable if the CLEC chooses not to use the viable electronic interfaces of BellSouth. A six month "burn-in" period will be allowed to debug respective BellSouth and CLEC OSS interfaces to ensure that the measurements are being recorded and reported accurately. For RBOCs such as BellSouth, their OSS and OSS tracking mechanisms required for performance reporting should be tested, debugged and fully operational. The aforementioned OSS are defined as the National Standard requirements as specified by Ordering and Billing Forum ("OBF") and defined by the Federal Communications Commission ("FCC"). This definition encompasses all OSS functions including pre-ordering, ordering, provisioning, maintenance and repair, and billing. Note that "debugging" refers to modifying and correcting system anomalies which occur during testing and implementation of OSS.

b. **LPSC's recommendation to FCC regarding Sec. 271 checklist compliance:**

BellSouth should be required to demonstrate parity by providing at least 6 consecutive months of performance reporting without one occurrence prior to the LPSC making a recommendation to the FCC that BellSouth has met the Section 271 requirements.

c. **Corrective Action Plan**

BellSouth must adjust its processes to ensure that it will promptly provide CLECs wholesale service at parity with its own retail operations. In all cases where an

event of non-compliance (measurement out of parity) has been reported, the ILEC will be required to develop a Corrective Action Plan ("CAP").

A CAP will be developed for each service quality measurement and sub-measurement that had a z-score that exceeded the individual critical value. (Note: A CAP will be developed when there is sufficient data sampled for a Performance Sub-Measurement or Performance Measurement to be statistically valid.)

BellSouth should submit the CAP(s) to the CLEC(s) and the state commission within thirty days following the release of the monthly performance report. The plan(s), at a minimum, should describe the root cause for each event of noncompliance, specify the implementation schedule for corrective actions, and identify when performance will return to a compliant level.

d. Penalties

For the First Occurrence of Type A, Type B, or Type C, BellSouth should be required to waive non-recurring charges and to refund monthly service charges to the affected CLEC(s) for those months where non-compliance occurred. The waiver of non-recurring and monthly service charges would be limited to those individual observations within the Performance Measurement, or Sub-measurement where the performance result was worse than parity. For example, if the average time to complete an order for BellSouth's POTS retail service is 3.5 days and it is determined that the results for a particular CLEC are not in compliance, then BellSouth would refund monthly service charges and non-recurring charges for those CLEC orders completed in more than 3.5 days. Invocation of this penalty will be automatic (i.e., absent any state commission

involvement), however, the CLEC(s) will bear the obligation of requesting such waivers and refunds from BellSouth.

For the Second Occurrence of Type A, Type B or Type C: two occurrences within a rolling twelve-month period will result in a swift and severe penalty. However, before the penalty is imposed, BellSouth has the opportunity, before the Louisiana Commission, to avoid or lessen the penalty for non-compliance. BellSouth should have thirty days to prove to the LPSC that the measurement is incorrect or flawed, or that the data feeding the measurement is incorrect or flawed, or that BellSouth is not at fault, thereby rendering the Occurrence(s) invalid. BellSouth should be required to prove that 1) the Occurrence(s) are invalid and/or 2) it has not exhibited a repeat offender pattern of behavior suggesting willful neglect of performance improvement. Otherwise, swift and severe penalties should result, up to and including the loss of joint marketing, based upon the Louisiana Commission's evaluation of the offense. The joint marketing loss should not be defined so broadly so as to mean that BellSouth could not keep long distance customers or market long distance through the long distance channel. The joint marketing penalty should be lifted after six months without one Occurrence.

IV. CONCLUSION

In recognition of the foregoing, Sprint urges the Commission to adopt all of its recommendations stated above.

Respectfully submitted this 11th day of January, 1999.

Sprint Communications Company L.P.

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-and-

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Attorneys for Sprint Communications Company L.P.

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and exact copy of the within and foregoing Comments of Sprint Communications Company L.P. Regarding January Workshop Issues in Docket No. U-22252, Subdocket C, via facsimile as indicated by an asterisk, and by U.S. First Class Mail, postage paid and properly addressed to the following:

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This 11th day of Jan., 1999.

Danielle Etzbach
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Comments: La. U-22252, sub C

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Monito Performance of Operations Support Systems.	)	R. 97-10-016
Order Instituting Investigation on the Commission's Own Motion into Monitoring Performance of Operations Support Systems.	)	I. 97-10-017

PRE-WORKSHOP STATEMENT OF AT&T COMMUNICATIONS OF CALIFORNIA, INC. (U-5002-C), ICG TELECOM GROUP, INC. (U-5406-C), MEDIAONE TELECOMMUNICATIONS OF CALIFORNIA, INC. (U-5549-C), MCIWORLDCOM COMMUNICATIONS, INC. (U-5011-C), NORTHPOINT COMMUNICATIONS, INC. (U-5829-C), COVAD COMMUNICATIONS (U-5752-C), COX CALIFORNIA TELECOM, LLC (U-5684-C), CALIFORNIA CABLE TELEVISION ASSOCIATION AND ELECTRIC LIGHTWAVE, INC. (U-5377-C)

Dated: January 7, 1999

I. INTRODUCTION

Pursuant to the ALJ's Ruling of December 18, 1998, AT&T Communications of California, Inc. (U-5002-C), ICG Telecom Group, Inc. (U-5406-C), MediaOne Telecommunications of California, Inc. (U-5549-C), MCIWorldCom Communications, Inc. (U-5011-C), NorthPoint Communications, Inc. (U-5829-C), Covad Communications (U-5752-C), Cox California Telecom, LLC (U-5684-C), the California Cable Television Association and Electric Lightwave, Inc. (U-5377-C) (collectively "the CLECs") submit their pre-workshop statement on the issues related to monitoring performance of operations support systems and change management.

The issues that the ALJ's ruling requests to be addressed in this statement fall into three categories: performance measures, performance incentives and change management. The parties involved in this proceeding have been working to resolve performance measures issues and have reached a partial joint settlement with respect to performance measures. This partial joint settlement is being filed with the Commission this week.

For those subjects in the performance measures category that were not resolved by the partial joint settlement, the parties will submit their written positions to the Commission on January 8, 1999. Accordingly, specifics regarding performance measures are not addressed in this statement.

The CLECs address below the scope of issues to be considered with respect to performance incentives, including a procedural process and a recommended schedule, and change management.

II. PERFORMANCE INCENTIVE ISSUES

meaningful opportunity to compete, no performance that is worse than the benchmark level should be tolerated.

The CLECs are willing, at the outset, to set a uniform critical value for determining whether parity exists on any measure. This is so even though the CLECs believe that a measure-specific critical value, as calculated through the Equal Risk methodology, would be fairer and more accurate. The CLECs will accept a standard deviation of 1 for parity measures because it tends to balance the Type I and Type II errors.

A benchmark standard is inherently different from a strict parity standard. Rather than being a comparative measure, a benchmark is a specific minimum performance level that must be provided at all times. Benchmarks are also based on the incumbent local exchange carriers' ("ILECs'") historical data. Thus, it is a reasonable expectation that the ILEC should exactly meet or exceed the benchmark.

To permit other interpretations puts the CLECs in an extremely vulnerable position. Their competitor, the ILEC, could be treated as though it were in compliance with a benchmark level of performance even if the performance delivered to the CLECs becomes highly variable. This should not be tolerated because the benchmark threshold should be a minimum level of acceptable performance for the particular function being measured.[1]

[1] A statistical test should not be used in conjunction with benchmarks unless the following deficiencies can be remedied. The z statistic calculation involves the CLEC variance in the denominator. The larger the CLEC variance, the smaller the z statistic value. Hence, the ILEC would have an incentive to provide a high degree of performance variability to the CLEC if a statistical test were used with benchmarks.

2. Measures To Which Incentives Will Be Applied

In the October 5 Report, the CLECs differed from Pacific on the measures to which incentives would be applied. The CLECs proposed to apply incentives to all measures, but Pacific argued that certain measures should not face incentives. In workshops held in Nevada, the parties reached an agreement on this issue, so it does not remain as an open issue here.

The Report identified a dispute on Measures 8a (% of flow-through orders), 18a (delay order interval to completion date), and 28a (% blocking on common trunks). The CLECs and Pacific have now agreed that incentives should apply to Measures 8a and 28a, but that incentives should not apply to Measure 18a.

In addition, the Report discussed four measures that had been designated by Pacific as TBD (to be decided):

- 7b (% of orders given jeopardy notice),
- 7c (average jeopardy notice interval),
- 19b (coordinated customer conversion), and
- 55y (provisioning trouble reports).

Pacific now agrees with the CLECs that incentives should apply to all of these measures as well.

1. Specific Criteria For Determining Imposition of Incentives

Most of the negotiations sessions have centered on trying to reach a consensus on the incentives structures, and on the highly related issue of mitigation. To continue the spirit of collaboration and in an effort to close the distance between the CLECs' and Pacific's positions on these issues, the CLECs are willing to adopt positions that they offered during the course

of negotiations. Accordingly, the CLECs offer the following incentives proposal, which addresses many of Pacific's criticisms of the CLEC proposal in the October Report.

The CLECs would not oppose an incentives plan that establishes two levels of incentives (Tier I and Tier II). The first tier constitutes incentives payable directly to an individual CLEC, based upon the number of missed performance results in a particular month. The second tier constitutes incentives payable to the State's general fund, based on missed performance results for the CLEC industry as a whole in a particular month.[2]

The CLECs recommend the process set forth below for the calculation of Tier I (CLEC-specific) and Tier II (industry-wide) performance incentives.

Tier I Incentives

This tier addresses missed submeasures for an individual CLEC, calculated on a monthly basis. Submeasures are the individual, disaggregated reported results for each measure. Incentives would vary depending on the severity of the miss (i.e., the number of standard deviations by which the submeasure is missed). In addition, higher incentive payments are applicable if the reported result for the performance measurement is found to be out of compliance for three (or more) consecutive months.

Thus, the following table delineates the Tier I incentive payments due to the affected CLEC when parity analysis applies:

[2] "Missed performance results," in the case of both Tier I and Tier II, is when the actual performance result for the CLEC (Tier I) or CLECs as an industry (Tier II) is worse than the relevant analogous retail performance of the ILEC or the benchmark level of performance, whichever is applicable.

Computed value of the modified Z-statistic	Monthly incentive (per submeasure) for one miss	Monthly incentive (per submeasure) for misses of three (or more) consecutive months
1 < modified Z-statistic value <= 3	$10,000	$50,000
Modified Z-statistic value > 3	$50,000	$50,000

When benchmarks are used, the following table would apply:

If benchmark missed, number of individual events (per submeasure) missing the benchmark	Monthly incentive (per submeasure) for one miss	Monthly incentive (per submeasure) for misses of three (or more) consecutive months
More than one occurrence, but fewer than 10% of occurrences	$10,000	$50,000
10% or more of occurrences	$50,000	$50,000

The CLECs' Tier 1 proposal is not vastly different from that contained in the CLECs' position in the Report. Based on discussions with other CLECs and with Pacific, the CLECs lowered the incentive amount for a single miss so as to minimize the financial impact on the ILEC due to random variation. The goal, as stated in the Report, is to cause the ILECs to provide service parity, not to penalize the ILEC based on random variation.

Tier II Incentives

In the Report, the CLECs proposed both a Tier II and a Tier III incentive. Again based on extensive discussions with other CLECs and Pacific, the CLECs, in the spirit of collaboration, would not oppose elimination of the original Tier II incentives (aimed at more widespread discrimination), but continue to recommend adoption of what had been referred to as Tier III incentives.[3] The CLECs believe if the Tier I incentives proposed above are adopted in conjunction with meaningful industry-wide incentives, then the imposition of additional incentives can be held in abeyance until actual experience is gained with the incentive plan.

The Tier II incentives constitute a regulatory fine, designed to deter the ILECs from engaging in conduct that suppresses competition from the CLEC industry. Because they are regulatory fines, they are paid to the state general fund rather than to an individual CLEC. Thus, the CLECs (and consumers) benefit through the incentives created for the ILECs to operate in a pro-competitive manner, but on the other hand, CLECs receive no direct monetary benefit from application of Tier II incentives.

Tier II incentives are triggered if the number of missed performance results, based on the aggregate experience of the CLECs, exceed the threshold level that would be expected to occur on a random basis (using an extremely conservative Type I error risk). The Tier II incentives are also designed to escalate if the CLEC industry is repeatedly treated in a discriminatory manner.

Tier II incentives, based on the CLEC industry in the aggregate, are calculated as follows:

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[3] Thus, for the purposes of the remainder of this document, what was previously described as Tier III incentives in the Report will now be referred to as Tier II incentives.

Calculate the performance result for each submeasure using the aggregation of data for all CLECs. Compute the modified z-statistic for each submeasure and determine how many of the computed z-statistic results exceed the critical value based upon a Type I error rate of 15%. Based upon the number of results where the critical value is exceeded (for performance within the report month) and based upon the total number of performance results computed, determine if, at a 95% level of confidence, the number of failed results exceeds the number that would be expected to fail due solely to random variability of the results. If the threshold is exceeded, then Tier II incentives are applicable.

For example, if there is data for 100 results evaluated, then the threshold would be approximately 20 missed submeasures; if there is data for 1000 results, the permissible number of failures due to randomness is approximately 170. Total missed submeasures that exceed this threshold would cause Tier II incentives to apply.

The actual number permissible will be dependent upon the Type I error rate adopted and the number of results evaluated but, in any event, the threshold can be explicitly calculated in advance and documented in a table format. Tier II incentives will apply whenever the previously calculated threshold is exceeded in a particular month.

Tier II incentives would be calculated using the following table:

Number of times threshold is exceeded	**Applicable Tier II incentive**
One finding in last 3 months	$.50/access line
Two findings in last 6 months	$1.00/access line
More than two findings in last 12 months	$2.00/access line

The CLECs concede that there is a remote risk of random variation resulting in a Tier II incentive liability. Accordingly, the CLECs would accept that when a Tier II incentive becomes due, it should be paid by the ILEC into an interest-bearing escrow account. If no

further Tier II violation occurs for the next 20 months,[4] then the money would be returned to the ILEC.

If a new Tier II violation occurred within 20 months, all escrowed money would be paid out of the account into the State general fund and the new Tier II incentive would be paid into the escrow account, triggering the start of a new 20-month escrow period.

1. Mitigation

a. Forgiveness Plan for Tier I Incentives

The CLECs initially opposed any mitigation plan for random variation because each proposal allowed the ILEC substantial opportunities to game its performance to CLECs. The CLECs still contend that random variation only harms the ILEC in the case where the ILEC is actually providing compliant performance on each and every measurement result. If the ILEC is not providing completely compliant performance, then random variation affects both the ILEC and the CLECs equally (provided the Type I and Type II error risks are balanced).

Thus, it is only in the hypothetical, yet ideal, circumstance of the ILEC providing perfectly compliant performance on each and every measure that the impact of random variation disproportionately affects the ILEC. Nevertheless, in a collaborative spirit, the

[4] The actual number of months to be used would be determined based on the confidence level that is chosen. In the example used here, one would expect that, on a random basis given perfectly compliant performance by the ILEC, only one failure would occur over a 20 month period (using a 95% confidence level).

CLECs have agreed to include a forgiveness plan in their proposal. The CLECs believe the following proposal is the only one that comes close to reasonably mitigating the impact of random variation, while not creating unprecedented opportunities for the ILEC to abuse the credit process.

Under the forgiveness plan, incentive obligations would be forgiven, on a submeasure basis, only when certain conditions are met. The following criteria would govern the granting and use of forgivenesses:

- One forgiveness per submeasure is provided each six months
- No more than two forgivenesses can be accrued per submeasure
- A forgiveness can only be used to offset the incentive payment due for the same submeasure for which the forgiveness was originally provided
- If a forgiveness is available it must be used at the first opportunity, with the following exceptions:
  - Available forgivenesses may never be used in consecutive months
  - Available forgivenesses may never be used to offset either a severe (critical value > 3) or a chronic (3 or more consecutive months) miss on a particular submeasure

a. Procedural Cap

The CLECs also will not object to the use of a procedural cap. This cap can be used as a further tool to mitigate ILEC financial liability resulting from the unlikely occurrence of sizeable incentive payments due solely to random variation. The procedural cap would allow the ILEC to obtain Commission review if the monthly performance incentives exceed a pre-specified amount.

Under this cap provision, if the total applicable Tier I incentives payments due to all CLECs within a single month are less than $10,000,000, then the incentive amounts will be

due and paid automatically to the affected CLECs, without any further action required on the part of the CLECs. If the total computed Tier I incentives for that month exceeds $10,000,000, the ILEC may request an expedited hearing to determine whether the amounts exceeding $10,000,000 should be paid out by the ILEC. In the event that such a request is made, the first $10,000,000 of Tier I incentives would be paid out in proportion to the total amount due to each CLEC to which incentives are owed.[5]

When calculating whether the total computed incentives within one month exceeds $10,000,000, Tier I incentives applicable to either severe (critical value > 3) or chronic (3 consecutive months) misses should not be included. When a submeasure is missed at either the severe or chronic level, the likelihood that the Tier I incentive obligation is due to random variation is almost nil. Tier II incentives should never be included in the determination of whether the $10,000,000 procedural cap has been exceeded.

Finally, incentives need to be adopted to ensure that performance reports will be accurate and timely. In addition, incentives need to exist to ensure timely payment by the ILEC. Thus, the CLECs propose that the Commission adopt provisions that address at least the following conditions:

- If the ILEC fails to submit performance reports to any CLEC or the Commission by the 15th day of the month, or submits reports that it later revises, the following penalties apply and are payable to the State general fund:
  - If no reports are filed, $25,000 per day past due;
  - If incomplete or revised reports are filed, $1,000 per day for each missing or revised performance result (the number of elapsed days are counted from the original date that the data was due until the date the missing or revised data was actually provided).

[5] The Commission should examine the record to ensure that the adopted incentive amounts, including the procedural cap, constitute truly compelling reasons for the ILECs to perform.

- All penalties, payable to either the CLEC or the State general fund, are due within 30 days, absent action by the Commission; otherwise additional penalties in the amount of $5,000 per day are also applicable to the party to whom the original payment was due.

1. Reporting and Auditing

This issue is addressed in the other two performance measures filings (the joint settlement and the open issues documents).

2 Recommended Procedural Process And Schedule

The CLECs do not believe that the issues related to performance incentives lend themselves very well to the evidentiary hearing process. Little exists in the way of factual dispute about how incentives should be applied. Instead, the questions focus on policy issues, related to the need to impose swift, self-executing performance incentives designed to help ensure the ILECs comply with their nondiscrimination obligations under the Act and the recent Section 271 decision (D. 98-12-069).

However, a technical workshop with statisticians would be useful for the Commission to question and explore the parties' positions on statistical tests and the issues surrounding random variation. Furthermore, the conduct of such a workshop would be greatly facilitated, and the factual basis of any conclusions drawn would be greatly enhanced, by the ILECs providing access to detailed performance data in advance of a technical workshop.

Accordingly, the CLECs recommend that the Commission establish a schedule for a technical workshop, as well as the filing of comments (based on the Report filed on October 5, 1998, on the pre-workshop statements filed for this workshop, and on the information provided in the technical workshop). The Commission should also require the ILECs to make

detailed and comprehensive performance data available in electronic form to interested parties no later than one week in advance of the start of the technical workshop.[6]

After the technical workshop, simultaneous opening and reply comments should be permitted. This would allow the parties to fully address their own proposals for the imposition of an incentives plan, as well as to respond to the proposals of other parties.

The following schedule should be used for this comment process:

- Technical data provided by ILECs — No later than January 26, 1999
- Technical workshop — Commencing February 2, 1999
- Opening comments due — February 19, 1999
- Reply comments due — March 5, 1999
- Draft decision issued — May 10, 1999
- Commission decision — June 24, 1999

In the event the Commission decides that there are factual issues that must be decided, the CLECs recommend that the following schedule be used for the filing of testimony, for hearings, and for the filing of briefs:

- Opening testimony due — February 1, 1999
- Reply testimony due — February 10, 1999
- Hearings — February 16 - 19, 1999
- Opening briefs due — March 8, 1999

[6] A complete explanation of the structure of all records provided and the meaning of all data elements within those records must also be provided within the same timeframe.

- Reply briefs due March 17, 1999
- Draft decision issued May 10, 1999
- Commission decision June 24, 1999

I. CHANGE MANAGEMENT

As the Commission is well aware, the CLECs and Pacific negotiated a mutually agreeable Change Management Process ("CMP"), beginning in early 1998.[7] The CMP was reduced to written form. Since late September 1998, there has been unanimous industry agreement on all the terms and conditions in the CMP, and an industry-wide settlement conference was held on October 19, 1998. During this meeting, **ALL** participants (including Pacific) agreed that the CMP accurately reflected the parties' agreement and agreed that the CMP should be presented to the Commission for approval in the form of a motion.

By early December, the parties had agreed on the form and wording of the motion. The only thing left was the minor ministerial task of obtaining signatures and completing the filing. Pacific offered to finalize the motion and obtain signatures on the motion from any interested CLECs. This has never happened. Instead, inexplicably, on December 20, Pacific began demanding "changes" in the CMP before it would agree to sign off on the settlement:

> "This letter is in connection with discussion I had with some of you Thursday regarding the Change Management Process (CMP) and some issues Pacific Bell feels it needs to raise concerning the timelines for CLEC testing and notification. Pacific agrees that the parties should try to resolve the timeline issues before submitting the CMP to the Commission for approval." (December 20, 1998 Letter from Ron Peat, Pacific Bell, to Change Management Core Team)

Although cast as an "agreement" to delay submission of the CMP to the Commission, in fact, Pacific's letter amounts to a unilateral demand. No CLEC ever agreed to delay the

filing – indeed, no CLEC was ever asked to agree to such a delay. In essence, Pacific is holding the CLECs hostage to its untimely and unreasonable demands for changes – unless and until the CLECs agree to Pacific's request, there will be no CMP.

Put simply, the time for Pacific to raise objections to the content of the CMP has long since past. The content to which it now objects (the notification and testing timelines) have been in place in the CMP proposal for many, many months. Nor are the notification and testing timelines merely a minor part of the CMP. Proper notification and testing are the core of the CMP. Pacific cannot claim to have been surprised by this or any other item in the CMP, having fully participated in each and every meeting, and each and every drafting session.

CLECs cannot help but wonder, given this 11th hour change of heart, whether Pacific ever intended to comply with the Change Management Process or whether, instead, they were led down the primrose path. Pacific's change of heart is even more suspicious given its timing – **AFTER** the Commission had all but blessed this aspect of Pacific's 271 application.

The CLECs fully recognize that the CMP is a "living" document and may need to be changed should implementation of any particular aspect prove unwise or cumbersome. The CMP makes provision for exactly such changes and provides a forum for parties to discuss changes (the Quarterly Change Management Meetings). Should Pacific believe changes are warranted, it should introduce them in this forum.

What it should **NOT** be allowed to do is to refuse to sign the agreed-upon settlement, leaving the CLECs unprotected from random and unannounced changes in Pacific's OSS. Pacific's vague "assurance" that it will use its "best efforts" to comply with a document to

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[7] A separate CMP settlement has been negotiated with GTE, but it is awaiting execution of the

which it refuses to be bound is of little comfort. The Commission should order Pacific to honor its commitment and its word, and require Pacific to sign and submit the motion requesting Commission approval of the CMP.

In the alternative, the Commission should immediately require Pacific to file the CMP document as a report of its settlement negotiations with CLECs, provide a 15-day period to receive comment from other parties, then expeditiously approve the CMP and require Pacific to immediately implement the CMP. In light of the parties' unanimous agreement on October 19, 1998 that the CMP document reflects an industry consensus for change management, this accelerated schedule is well justified.

II. CONCLUSION

The CLECs urge the Commission to move quickly to resolve the open issues surrounding performance measures and performance incentives. The positions and proposed schedule set forth above allow for action on performance incentives and change management.

Pacific settlement.

The joint partial settlement and the January 8 position papers on performance measures allow for action on that subject.

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Respectfully submitted,

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